

FROM:

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To whom it may concern:

This is a request for copies of and the opportunity to inspect records within the possession of the Office of the Administrator of the Environmental Protection Agency under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 and the Privacy Act, 5 U.S.C. § 552a. This request should be considered under both statutes to maximize the release of records.

RECORDS SOUGHT

- 1) Records of written correspondence sent to or from Harlan Crow that include as a sender or a recipient any of the following individuals during the period they served as Administrator of the Environmental Protection Agency, including in an acting capacity:
 - a) Andrew Wheeler (July 2018-Jan. 2021)
 - b) Scott Pruitt (Feb. 2017-July 2018)
 - c) Catherine McCabe (Jan. 2017-Feb. 2017)
 - d) Stephen Johnson (Jan. 2005-Jan. 2009)
 - e) Mike Leavitt (Nov. 2003-Jan. 2005)
 - f) Marianne Lamont Horinko (July 2003-Nov. 2003)
 - g) Linda Fisher (June 2003-July 2003)
 - h) Christine Todd Whitman (Jan. 2001-June 2003)

This request covers emails, letters, text messages, messages sent via phone applications, or other written forms of communication.

EXPEDITED PROCESSING

Under 5 U.S.C. § 552(a)(6)(E), a request is to be given expedited processing when the requester demonstrates a “compelling need.” I am seeking expedited treatment for this request.

- This request involves a matter of widespread and exceptional media interest. Harlan Crow has been the subject of recent reporting regarding undisclosed financial transactions involving US Supreme Court Justice Clarence Thomas, prompting nationwide public scrutiny – and current congressional review – of how financial disclosure laws are enforced. This request concerns relationships between Mr. Crow and government officials who were similarly subject to financial reporting requirements. Responsive records would be immediately relevant to review ethics enforcement across federal agencies.

INSTRUCTIONS REGARDING SCOPE AND BREADTH OF REQUESTS

Please interpret the scope of this request broadly. The department is instructed to interpret the scope of this request in the most liberal manner possible short of an interpretation that would lead to a conclusion that the request does not reasonably describe the records sought.

EXEMPTIONS AND SEGREGABILITY

Under the FOIA Improvement Act of 2016, agencies must adopt a presumption of disclosure, withholding information “only if . . . disclosure would harm an interest protected by an exemption” or “disclosure is prohibited by law.”

The FOIA Improvement Act of 2016 also amended the FOIA as follows (5 USC 552(a)(8)):

- (A) An agency shall—
 - (i) withhold information under this section only if—
 - (I) the agency reasonably foresees that disclosure would harm an interest protected by an exemption described in subsection (b); or
 - (II) disclosure is prohibited by law; and
 - (ii) (I) consider whether partial disclosure of information is possible whenever the agency determines that a full disclosure of a requested record is not possible; and
 - (II) take reasonable steps necessary to segregate and release nonexempt information.

If it is your position that any portion of the requested records is exempt from disclosure, I request that you provide an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974). As you are aware, a Vaughn index must describe each document claimed as exempt with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA.”

Moreover, the Vaughn index “must describe each document or portion thereof withheld, and for each withholding it must discuss the consequences of disclosing the sought-after information.” Further, “the withholding agency must supply ‘a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.’”

In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. Claims of nonsegregability must be made with the same degree of detail as required for claims of exemptions in a Vaughn index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

Further, “the withholding agency must supply ‘a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.’”

In addition, I ask that your agency exercise its discretion to release records which may be technically exempt, but where withholding serves no important public interest.

ADDITIONAL INSTRUCTIONS REGARDING REQUEST

If a portion of the responsive records become available before the entire request is complete, I respectfully request that your agency provide records on a rolling basis.

FORMAT

I request that any releases stemming from this request be provided to me in digital format via email, a compact disk or other like media.

FEE CATEGORY AND REQUEST FOR A FEE WAIVER

I request to be categorized as a representative of the news media. 5 U.S.C. § 552(a)(4)(A)(ii). I am a reporter for Bloomberg News, and my reporting reaches thousands of readers every week. The requested records will inform my reporting and I intend to use these records in my capacity as a reporter.

Further, I request that any remaining fees be waived because disclosure of the responsive records “is in the public interest” as “it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). The subject of the records is Harlan Crow, an individual with recently documented financial ties to a sitting Supreme Court justice. The records are likely to contribute to the general public’s understanding of its government because they will show whether Mr. Crow had interactions or relationships with other high-level government officials, potentially prompting review of whether there was any financial element to those relationships that warrants further exploration of compliance with financial disclosure laws. Moreover, as a reporter for Bloomberg News, I am able to distribute this information broadly to the public.

Please do not hesitate to contact me if you have any questions concerning this request. Thank you. I appreciate your time and attention to this matter.

Sincerely,

Zoe Tillman